

IOWA DEPARTMENT OF NATURAL RESOURCES
ADMINISTRATIVE CONSENT ORDER

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Director's Office

IN THE MATTER OF:

IOWA LIMESTONE COMPANY

ADMINISTRATIVE CONSENT ORDER

NO. 2012-AQ-13

TO: Iowa Limestone Company
Rich Polzin
Plant Manager
800 River Drive
Alden, Iowa 50006

I. SUMMARY

This administrative consent order is entered into between the Iowa Department of Natural Resources (DNR) and Iowa Limestone Company (Iowa Limestone) for the purpose of resolving violations of recordkeeping and permitting requirements. In the interest of avoiding litigation, the parties have agreed to the provisions below. This Administrative Consent Order supersedes Administrative Order No. 2011-AQ-06.

Any questions regarding this administrative consent order should be directed to:

Relating to technical requirements:

Glenn Carper
Iowa Department of Natural Resources
Field Office No. 2
2300 15th Street S.W.
Mason City, Iowa 50401
Phone: 641/424-4073

Relating to legal requirements:

Anne Preziosi, Attorney for the DNR
Iowa Department of Natural Resources
7900 Hickman Road, Suite 1
Urbandale, Iowa 50322
Phone: 515/281-6243

Payment of penalty to:

Director of the Iowa DNR
Wallace State Office Building
502 East Ninth Street
Des Moines, Iowa 50319-0034

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IDNR AIR QUALITY

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II. JURISDICTION

This administrative order is issued pursuant to the provisions of Iowa Code chapter 455B, Division II (air quality), and the rules promulgated or permits issued pursuant to that part; and Iowa Code section 455B.109 and 567 Iowa Administrative Code (IAC) chapter 10, which authorize the Director to assess administrative penalties.

III. STATEMENT OF FACTS

1. Iowa Limestone Company in Alden, Iowa, consists of three plants under common ownership and control. Plant #1 is the original facility at 800 River Drive in Alden. It manufactures agricultural lime products from locally mined limestone. Plant #2 was purchased in 1987 from American Cyanamid Company. It also manufactured agricultural lime products, and it is located about two miles east of Plant #1. Plant #2 now is used as a warehouse for Plant #1. Active manufacturing no longer occurs at Plant #2. Plant #3 was purchased from Iowa Mineral Processing in November 2003. It is located adjacent to Plant #1. Plant #3 also manufactures agricultural lime products. The subject of this order is emissions from Plant #1.

2. On June 25, 2009, Glenn Carper of DNR Field Office No. 2 conducted inspections at all three Iowa Limestone plants. There were no problems at Plants #2 and #3; however, visible emissions were observed from three of the stacks at Plant #1. Formal opacity readings were conducted for these three stacks. Emission Point 2 (Process System – Permit No. 79-A-215-S5) has an opacity limit of 7%. The opacity observed at the time of the inspection was 29%. Emission Point 7 (Hammermills – Permit No. 73-A-179-S4) has an opacity limit of 7%. The opacity observed at the time of the inspection was 9%. Emission Point 9 (Old Dical Bin – Permit No. 85-A-130-S2) has an opacity limit of 7%. The opacity observed at the time of the inspection was 18%.

3. Plant personnel were not aware of the emissions from Emission Point 9, but they had been aware of the emissions from Emission Points 2 and 7 since Tuesday June 23, 2009. Verbal notification of the excess emissions had not been made to the DNR Field Office, as required. Repairs had been scheduled for Saturday, June 27, 2009.

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4. Administrative Order No. 2011-AQ-06 was issued to Iowa Limestone on March 22, 2011, and was timely appealed. Pursuant to and in compliance with that administrative order, Iowa Limestone has prepared a maintenance plan that has been approved by DNR for Plant No. 1, and voluntarily prepared a maintenance plan for Plant No. 3. Those maintenance plans are attached to this order as Exhibits A, B, C, D, E, F, H, and I, and Attachments A and B. In addition, Iowa Limestone trained two of its workers as opacity readers, prior to the issuance of Administrative Order No. 2011-AQ-06.

5. Iowa Limestone does not admit the Statement of Facts or Conclusions of Law alleged in this administrative order, but Iowa Limestone agrees to comply with Section V of this order.

IV. CONCLUSIONS OF LAW

1. Iowa Code section 455B.133 provides that the Environmental Protection Commission (Commission) shall establish rules governing the quality of air and emission standards. The Commission has adopted 567 IAC chapters 20-35 relating to air quality.

2. Pursuant to Iowa Code sections 455B.133 and 455B.134(3)(a), 567 IAC 22.1(1) requires that a person who constructs, installs, reconstructs or alters equipment or control equipment must first obtain an air quality construction permit from the DNR, unless an exemption applies.

3. Pursuant to Iowa Code section 455B.133, 567 IAC 22.3(3) authorizes permits to be issued subject to written conditions. The above facts indicate violations of air quality construction permits issued to Iowa Limestone. Iowa Limestone failed to comply with the opacity limits specified in its construction permits for Emission Points 2, 7, and 9. Further, Iowa Limestone failed to comply with the requirements for constructing Emission Points 8 and 9.

4. Pursuant to Iowa Code section 455B.133, 567 IAC 23.3(2)"d" was adopted, which states that no person shall allow, cause or permit the emission of visible air contaminants into the atmosphere from any equipment, internal combustion engine, premise fire, open fire or stack, equal to or in excess of 40 percent opacity or that level specified in a construction permit. 567 IAC 23.1(2)"bbb" adopts by reference 40 CFR Part 60 Subpart OOO which limits the opacity from a stack on an affected piece of equipment to 7%. Iowa Limestone failed to comply with these opacity requirements for Emission Points 2, 7, and 9.

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5. Pursuant to Iowa Code section 455B.133, 567 IAC 24.2(1) was adopted, which specifies that control equipment must be maintained and operated at all times in a manner consistent with good practice for minimizing emissions and that any case of excess emissions must be remedied in an expeditious manner, or the process generating the emissions shall be shut down in a reasonable amount of time. An expeditious manner is the time necessary to determine the cause of the excess emissions and to correct it within a reasonable period of time. A reasonable period of time is eight hours plus the period of time required to shut down the process without damaging the process equipment or control equipment. Iowa Limestone did not act appropriately to curtail its excess emissions, as required.

6. Pursuant to Iowa Code section 455B.133, 567 IAC 24.1(2) was adopted, which requires that an incident of excess emission be orally reported to the DNR Field Office within eight hours, or at the beginning of the next working day. Iowa Limestone was aware of the emissions from two of the emission points on Tuesday June 23rd, but did not make the necessary verbal notification to the Mason City Field Office.

V. ORDER

THEREFORE, DNR orders and Iowa Limestone agrees to the following:

1. Pay a penalty of \$5,000.00 within 60 days of the date this order is signed by the Director.

VI. PENALTY

Pursuant to the provisions of Iowa Code section 455B.109 and 567 IAC chapter 10, which authorize the Director to assess administrative penalties, a penalty of \$5,000.00 is assessed by this administrative consent order. The penalty must be paid within 60 days of the date this order is signed by the Director. The administrative penalty is determined as follows:

Iowa Code section 455B.146 authorizes the assessment of civil penalties of up to \$10,000.00 per day of violation for the air quality violations involved in this matter. More serious criminal sanctions are also available pursuant to Iowa Code section 455B. 146A.

Iowa Code section 455B.109 authorizes the Commission to establish by rule a schedule of civil penalties up to \$10,000.00 that may be assessed administratively. The Commission has adopted this schedule with procedures and criteria for

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assessment of penalties through 567 IAC chapter 10. Pursuant to this rule, DNR has determined that the most effective and efficient means of addressing the above-cited violations is the issuance of an administrative consent order with a penalty. The administrative penalty assessed by this order is determined as follows:

Economic Benefit – Iowa Limestone has achieved an economic benefit from its violations. The facility has failed to maintain its emission units in a manner designed to minimize excess emissions, as required. The three plants have a total of eleven operating baghouses. It is estimated that the facility has saved at least \$5,000.00 by avoiding these costs. Therefore, \$1,500.00 is assessed for this factor.

Gravity of the Violation – One of the factors to be considered in determining the gravity of a violation is the amount of penalty authority by the Iowa Code for that type of violation. Substantial penalties are authorized by statute. Despite the high penalties authorized, DNR has determined at this time that the most equitable and efficient means of resolving this matter is through the issuance of an administrative consent order. Failure to comply with air quality construction permit requirements and failure to operate in a manner designed to minimize excess emissions, including the timely reporting of excess emissions, undermines the construction permitting and air quality compliance program for the State of Iowa. Therefore, \$1,500.00 is assessed for this factor.

Culpability – Iowa Limestone has a duty to remain knowledgeable of DNR's requirements and to be alert to the probability that its conduct is subject to DNR's requirements. Iowa Limestone has a history of non-compliance with air quality requirements. Therefore, \$2,000.00 is assessed for this factor.

VII. WAIVER OF APPEAL RIGHTS

This administrative consent order is entered into knowingly and with the consent of Iowa Limestone. For that reason, Iowa Limestone waives its rights to appeal this order or any part thereof.

VIII. NONCOMPLIANCE

Failure to comply with this administrative consent order, including failure to timely pay any penalty, may result in the imposition of further administrative penalties or referral to the attorney general to obtain injunctive relief and civil penalties pursuant to Iowa Code section 455B.146. Compliance with Section "V. Order" of this administrative consent order constitutes full satisfaction of all


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requirements pertaining to the specific violations described in Section "IV.
Conclusions of Law" of this administrative consent order.



Roger L. Lande, Director
Iowa Department of Natural Resources

Dated this 27th day of
April, 2012.



Iowa Limestone Company

Dated this 19 day of
April, 2012.

Facility No. 42-04-001; Anne Preziosi; DNR Field Office 2; VII.C.2